

## STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-11/09-627  
 )  
 Appeal of )

# INTRODUCTION

The petitioner appeals a decision by the Office of Vermont Health Access (OVHA) denying her request for prior authorization for additional chiropractic treatments. The issue is whether the petitioner meets the criteria for prior authorization for additional chiropractic treatment.

The decision is based on the evidence adduced at hearing and review of additional materials submitted post-hearing.

## FINDINGS OF FACT

1. The petitioner is a fifty-five-year-old woman who receives Vermont Health Access Plan (VHAP) benefits. Petitioner has degenerative disc disease.

2. The petitioner has periodically received chiropractic treatment to deal with her back pain.

3. Petitioner started chiropractic treatment on August 27, 2009 with Dr. H.D. after receiving notification that chiropractic treatment was being covered under VHAP. Dr.

H.D. has provided chiropractic care to petitioner in the past.

4. VHAP covers the payment of ten visits during a calendar year without prior authorization.

5. On or about November 16, 2009, Dr. H.D. submitted a request for prior authorization for six additional visits on behalf of petitioner.

Dr. H.D. wrote that petitioner had lumbar pain. Dr. H.D. wrote that petitioner's current back problems resulted from petitioner caring for her dying mother and cleaning the entire house during July 2009. She stated that petitioner had made 50 percent progress and listed her initial and current pain as 10/10.

Dr. H.D. attached her treatment notes and a copy of a MRI performed on November 5, 2009. The MRI summary stated there was evidence of degenerative disc disease, disc bulge, and small amount of L5-S1 herniation.

6. OVHA issued a denial on November 20, 2009 after determining that there were no exceptional or unusual circumstances to justify an exception to the cap of ten chiropractic treatments covered per calendar year.

7. A request for fair hearing was filed with the Human Services Board on November 25, 2009. A hearing was convened on December 10, 2009.

8. J.A. testified on behalf of OVHA. J.A. is a registered nurse who is employed as a nurse case manager. He reviews prior authorization requests. J.A. reviewed petitioner's request. He stated that factors included the lack of progress made in petitioner's case after the treatment she received. During the 2009 calendar year, petitioner received a total of twenty-three chiropractic treatments. He stated there was no evidence showing any unusual or exceptional circumstances that would justify payment for additional chiropractic treatment. He recommended denial. The medical reviewer concurred.

9. Petitioner testified. In the past, two to three treatments have been sufficient when she has needed chiropractic care. She believes her present situation is a combination of no chiropractic care between May to the end of August 2009 and the strain she put on her back caring for her mother.

Petitioner brought an amended prior authorization form to the hearing that noted that she had functional loss in terms of prolonged sitting, lifting and walking. She also

noted the information on her current pain levels was not correct as there has been improvement due to her treatment.

Petitioner intends to start a temporary job in January 2010 that involves sitting during the course of the workday and would like to maximize her treatment to deal with prolonged sitting.

10. Arrangements were made for OVHA to review additional information from petitioner. Dr. H.D. submitted additional information. In that information, Dr. H.D. noted that petitioner's initial and current pain levels remained the same at ten (highest pain). Dr. H.D. did not include any additional information noting unusual or exceptional circumstances. After review, OVHA affirmed their earlier decision to deny additional chiropractic visits.

ORDER

OVHA's decision is affirmed.

REASONS

OVHA has set out regulations governing the coverage of chiropractic services. The pertinent portion of W.A.M. § 7304 provides:

Coverage is limited to ten treatments per beneficiary per calendar year. Exceptional or unusual circumstances may justify a request by the chiropractor for additional

coverage. Requests must contain full clinical data, x-rays or other documentation as may be required by the Office of Vermont Health Access, to evaluate the medical necessity for continued care.

OVHA has the authority to place appropriate limits on medical services including duration of services. 42 C.F.R. § 440.230(d). In determining whether petitioner should be granted an extension of coverage, the petitioner has the burden of proof to show exceptional or unusual circumstances to justify her request.

Petitioner was given the opportunity after hearing to submit additional materials from Dr. H.D. that would document exceptional or unusual circumstances. Although the additional information showed some functional impairment, the information continued to show only a 50 percent improvement and to show pain levels that remained the same as when petitioner started her current course of treatment during August 2009. Petitioner did not provide additional information that meets the requirement of showing exceptional or unusual circumstances.

Accordingly, OVHA's decision to deny additional chiropractic treatment is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

# # #